APPENDIX.

Jurisdictional Statutes.

Section 240 (a) of the Judicial Code, 28 U. S. Code 347 (a):

> "In any case, civil or criminal, in the Circuit Court of Appeals, or in the Court of Appeals of the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether government or other litigant, to require by certiorari, either before or after a judgment or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect as if the cause had been brought there by unrestricted writ of error on appeal."

Section 8 (a) of the Act of February 13, 1925, 28 U. S. Code 350:

This section, in substance, provides a limitation of three months after the entry of a judgment or decree for making application for certiorari.

Bankruptcy Act, Section 47, Title 11, U. S. Code, as amended June 22, 1938:

> "c. The Supreme Court of the United States is hereby vested with jurisdiction to review judgments, decrees and orders of the Circuit Courts of Appeals of the United States and the United States Circuit Court of Appeals for the District of Columbia in proceedings under this title in accordance with the provisions of the laws of the United States now in force and such as may hereafter be enacted."

Bankruptcy Act, Section 47, Title 11, U. S. Code, as amended:

> "a. The Circuit Courts of Appeals of the United States and the United States Court of Appeals for the

District of Columbia, in vacation, in chambers, and during their respective terms, as now or as they may be hereafter held, are invested with appellate jurisdiction from the several courts of bankruptcy in their respective jurisdictions in proceedings in bankruptcy, either interlocutory or final, and in controversies arising in proceedings in bankruptcy, to review, affirm, revise, or reverse, both in matters of law and in matters of fact; * * *

"b. Such appellate jurisdiction shall be exercised by appeal and in the form and manner of appeal."

Practice on Appeals in Bankruptcy.

Section 48, Title 11, U. S. Code, as amended June 22, 1938:

"a. Appeals under this title to the Circuit Courts of Appeals of the United States and the United States Circuit Court of Appeals for the District of Columbia shall be taken within thirty days after written notice to the aggrieved party of the entry of the judgment, order or decree complained of, proof of which notice shall be filed within five days after service or, if such notice be not served and filed, then within forty days from such entry."

"b. Receivers and trustees shall not be required in any case to give bond when they take appeals."

General Orders in Bankruptcy.

36. Appeals:

"Appeals shall be regulated, except as otherwise provided in the Act, by the rules governing appeals in civil actions in the courts of the United States, including the rules of civil procedure for the District Courts of the United States."

28 U. S. C., following Section 723 c, as amended January 16, 1939.

37. General Provisions:

"In proceedings under the act the rules of civil procedure for the District Courts of the United States (28 U. S. C. following Section 723-c), shall, insofar as they are not inconsistent with the Act or with these General Orders, be followed as nearly as may be. But the Court may shorten the limitations of time prescribed so as to expedite hearings, and may otherwise modify the rules for the preparation or hearing of any particular proceeding."

As amended January 16, 1939.

47. Reports of Referees and Special Masters:

"Unless otherwise directed in the order of reference the report of a referee or of a special master shall set forth his findings of fact and conclusions of law, and the Judge shall accept his findings of fact unless clearly erroneous. The Judge at the hearing may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions."

As amended January 16, 1939.

Rules of Civil Procedure.

Rule 52, findings by the Court:

"(a) Effect. In all actions tried upon the facts without a jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and the conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court.

"(b) Amendment. Upon motion of a party made not later than ten days after entry of judgment, the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to Rule 59. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support such findings may thereafter be raised whether or not the party raising the question has made in the District Court an objection to such findings or has made a motion to amend them or a motion for judgment."

Rule 46: **Exceptions Unnecessary**:

"Formal exceptions to rulings or orders of the Court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and if a party has no opportunity to object to a ruling or order at the time it is made the absence of an objection does not thereafter prejudice him."

28 U. S. C. A., following Section 723c.

Rules of Circuit Court of Appeals, Eighth Circuit.

Rule 13:

"1. In * * * all civil cases, appellant may file, at the time the typewritten or manuscript transcript is filed with the clerk of this court, a designation of the parts of the record he thinks material for consideration of the errors assigned (in criminal and bankruptcy cases) or the points relied upon (in civil cases), and such statements shall include proof of service of a copy thereof upon adverse parties or their counsel. Such adverse parties or counsel may, within ten days after the above service, file with such clerk a designation of such additional parts of the record as they think ma-

terial. A failure to file either of the above designations at the above times shall be deemed a waiver thereof. If designations are made, the clerk shall print those parts only; and the court will consider only the record as thus printed. If, at the hearing, it shall appear that any material part of the record has not been printed, the court may make such order (including dismissal of the appeal) as may seem proper. * * *"

Rule 14—Briefs:

"Sixth.—A printed argument which shall substantially follow the order of points stated under 'fifth.' The court will entirely disregard any statement in the argument as to what the record contains unless reference is made to the page of the printed record where the statement may be found or verified. * * *"

Priority Statutes.

Sec. 104, Title 11, U. S. Code:

"(b) The debts to have priority, in advance of the payment of dividends to creditors, and to be paid in full out of bankrupt estates, and the order of payment shall be (1) the actual and necessary costs of preserving the estate subsequent to filing the petition; (2) the filing fees paid by creditors in involuntary cases, and where property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the bankrupt estate by the efforts and at the expense of one or more creditors, the reasonable expense of such recovery; the cost of administration, including the fees and mileage payable to witnesses as now or hereafter provided by the laws of the United States, and one reasonable attorney's fee for the professional services actually rendered, irrespective of the number of attorneys employed, to the petitioning creditors in involuntary cases while performing the duties herein prescribed and to the bankrupt in voluntary and involuntary cases, as the court may allow. * * *"

The foregoing statute was amended effective June 22, 1938, as follows:

11 U. S. Code 104:

"a. The debts to have priority, in advance of the payment of dividends to creditors, and to be paid in full out of bankrupt estates, and the order of payment, shall be (1) the actual and necessary costs and expenses of preserving the estate subsequent to filing the petition; the filing fees paid by creditors in involuntary cases; where property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the estate of the bankrupt by the efforts and at the cost and expense of one or more creditors, the reasonable costs and expenses of such recovery; the costs and expenses of administration, including the trustee's expenses in opposing the bankrupt's discharge, the fees and mileage payable to witnesses as now or hereafter provided by the laws of the United States, and one reasonable attorney's fee, for the professional services actually rendered, irrespective of the number of attorneys employed, to the petitioning creditors in involuntary cases and to the bankrupt in voluntary and involuntary cases, as the court may allow; * * *."